

**REMARKS**

In the Office Action dated July 2, 2003, all pending claims were rejected, on the grounds that they were not considered to be patentable over the teachings of the Bullock patent, either individually or in combination with other references. To reduce the issues under consideration, claims 1-6 and 12 have been canceled. Applicant respectfully requests reconsideration and withdrawal of the rejections of the claims that remain pending.

**Claims 7, 8 and 13**

Claims 7, 8 and 13 were rejected under 35 U.S.C. §102, on the grounds that they were considered to be anticipated by the *Bullock et al* patent. Among other features, claim 7 recites a mode setting unit for selectively switching the photographing apparatus into and out of the photographing mode, together with a display for displaying an indicator through which an instruction for a photographing action is transmitted to the photographing apparatus. Claim 8 recites the steps of selectively placing the photographing apparatus in a photographing mode, and displaying an indicator for transmitting an instruction of the photographing action to the photographing apparatus. Claim 13 recites a program that selectively places a photographing apparatus in a photographing mode, and displays an indicator for generating an instruction for a photographing action. The rejection of claims 7, 8 and 13 states that column 5, lines 15-19 of the *Bullock et al* patent teaches the use of mode setting switches for setting a photographing mode of an image capture device, and that the button 177 corresponds to the claimed indicator. However, as pointed out in

applicant's prior response, the switches described at column 5, lines 15-19 do not function to set the image capture device into a photographing mode. Rather, the patent states that these controls "determine the method of presentation, selection and storage of the images." There is no disclosure in the patent which suggests that the camera is "selectively" placed in a photographing mode. Rather, it appears that it is *always* ready to perform a photographing operation.

In responding to this argument, the most recent Office Action states that the Examiner views the action of pressing button 177, which performs the act of capturing an image, as corresponding to the claimed recitation of setting the image capturing device into a photographing mode. However, as noted above, the statement of rejection relies upon the button 177 as being the claimed indicator for transmitting an instruction for a photographing action. As a result, it is not clear from the Office Action whether the switches 179 and 181 of the Bullock patent, or the button 177, is being viewed as the claimed "mode setting unit" of claim 7. Further clarification of this point is requested if the rejection is not withdrawn.

In any event, it is respectfully submitted that a person of ordinary skill in the art would not interpret the function of the button 177 as one which selectively places a photographing apparatus into a photographing mode. More particularly, with reference to claim 7, the picture button 177 does not function to "selectively" switch the photographing apparatus "into and out of" a photographing mode. Rather, as set forth in the statement of rejection, the button 177 performs the function of transmitting an instruction for a

photographing action, i.e. to capture an image. The operation of capturing an image is different from placing the camera in a mode in which it is capable of capturing the image.

It is respectfully submitted that the *Bullock et al* patent does not provide any support for the interpretation set forth in the Office Action, namely that the button 177 functions to selectively switch the camera into and out of a photographing mode. There is nothing in the patent to suggest that the image capture device ever operates outside of a photographing mode, such that it would need to be placed back into such a mode. Accordingly, it is respectfully submitted that the *Bullock et al* patent does not anticipate the subject matter recited in claims 7, 8 and 13.

#### **Claims 9, 11 and 14**

The rejection of claims 9, 11 and 14 under 35 U.S.C. §103, as being unpatentable over the *Bullock et al* patent in view of the *Tsushima et al* patent, was maintained. In responding to Applicant's previous arguments traversing this ground of rejection, the most recent Office Action states: "Bullock teaches that in order for the window to be active and displaying information power needs to be supplied to the viewfinder and the camera." However, applicant is unable to find any support for this statement. To the contrary, the *Bullock et al* patent teaches that the window is open even during those times when power is not supplied to the camera.

Specifically, at column 9, lines 45-58, the patent states that when the user clicks on the power button 178 in the capture device window, a determination is made whether the

camera power is on or off. If it is on, the camera power is turned off at step 344 of Figure 19C. The patent states that: "The method then continues back to the tests in Fig. 19B on how the captured images should be displayed on the computer screen." This statement suggests that the capture device window remains open. There is no disclosure that the window is closed, or minimized. Further in this regard, the patent goes on to state that: "If the image capture device power is off, a test is performed to determine whether a capture device window has been opened. If so, the camera power is turned on." Thus, the patent clearly contemplates that the capture device window is open at periods of time when the camera itself is not powered.

Accordingly, it is respectfully submitted that the *Bullock et al* patent does not support the premise upon which the rejection of claims 9, 11 and 14 is based, namely that when power to the camera is turned off, the window no longer displays an image.

#### **Claim 10**

Claim 10 was rejected under 35 USC § 103 as being unpatentable over the *Bullock* patent. Claim 10 depends from claim 9 and is therefore submitted to be patentable over the *Bullock* patent on the same basis as presented above.

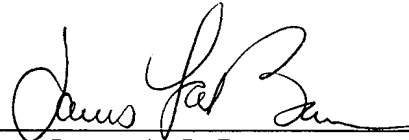
For at least the foregoing reasons, therefore, it is respectfully submitted that the *Bullock et al* patent does not anticipate, nor otherwise suggest, the claimed subject matter, whether considered by itself or in combination with any of the secondary references. Reconsideration and withdrawal of the rejections are therefore respectfully requested.

Respectfully submitted,

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